

All communications respecting this case should identify it by number and names of parties.



MAILED

FEB 13 1997

PAT. & TM. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: BOX INTERFERENCE
Commissioner of Patents and Trademarks
Washington, D.C. 20231

Telephone: (703) 308-9797
Facsimile: (703) 308-7953

Applicants: Paoletti et al.
Serial No.: 08/228,926
Filed: 04/18/94
For: METHODS USING MODIFIED
VACCINIA VIRUS
Accorded benefit of:
U.S. Application Serial Nos.
07/881,995, filed 05/04/92,
now abandoned; 07/537,882,
filed 06/14/90, now U.S.
Patent No. 5,110,587, issued
05/05/92; 07/090,209, filed
08/27/87, now abandoned;
06/622,135, filed 06/19/84,
now Patent No. 4,722,848,
issued 02/02/88; 06/446,824,
filed 12/08/82, now
Patent No. 4,603,112, issued
08/05/86

The case referred to above has been forwarded to the Board of Patent Appeals and Interferences because it is adjudged to interfere with other cases hereafter specified. Attention is directed to the fact that this interference is declared pursuant to 37 C.F.R. § 1.601 et seq., effective April 21, 1995 (60 F.R. 14488, 1173 O.G. 384). The interference is designated as No. 103,399.

By direction of the Commissioner of Patents and Trademarks and as required by 35 U.S.C. § 135(c), notice is hereby given the parties of the requirement of the law for filing in the Patent and Trademark Office a copy of any agreement "in connection with or in contemplation of the termination of the interference."

Junior Party

Applicants: Enzo Paoletti and Dennis Panicali

Addresses: 297 Murray Avenue, Delmar, NY 12054

R.D. 2, Averill Park, NY 12018

Serial No.: 08/228,926 filed 04/18/94

For: METHODS USING MODIFIED VACCINIA VIRUS

Assignee: None

Attorneys of record: Donald R. Bentz and William S. Frommer

Associate Attorney: None

Accorded benefit of: U.S. Application Serial Nos. 07/881,995,
filed 05/04/92, now abandoned; 07/537,882,
filed 06/14/90, now Patent No.
5,110,587, issued 05/05/92; 07/090,209,
filed 08/27/87, now abandoned; 06/622,135,
filed 06/19/84, now Patent No. 4,722,848,
issued 02/02/88; 06/446,824, filed
12/08/82, now Patent No. 4,603,112,
issued 08/05/86

Address: William S. Frommer
Curtis, Morris & Safford
530 Fifth Avenue
New York, New York 10036

Junior Party

Patentees: Enzo Paoletti and Dennis Panicali

Addresses: 4 Furman Place, Delmar, NY 12054
R.D. 2, Averill park, NY 12018

Serial No.: 06/446,824 filed 12/08/82, now Patent No. 4,603,112,
granted 07/29/86

For: MODIFIED VACCINIA VIRUS

Assignee: Health Research, Incorporated, Albany, NY

Attorneys of Record: Donald R. Bentz and William S. Frommer

Associate Attorney: none

Accorded Benefit of: none

Address: William S. Frommer
Curtis, Morris & Safford
530 Fifth Avenue
New York, NY 10036

Senior Party

Applicants: Bernard Moss, Michael Mackett and Geoffrey L. Smith

Addresses: 10301 Dickens Avenue, Bethesda, MD 20814
Paterson Lab., Christie Hosp. and Holt Radium Inst.,
Winslow Road, Manchester M20 9BX, United Kingdom
325 Hills Road, Cambridge CB2 2QT, England

Serial No.: 07/987,546 filed 12/07/92

For: RECOMBINANT VACCINIA VIRUS CONTAINING A CHIMERIC GENE
HAVING FOREIGN DNA FLANKED BY VACCINIA REGULATORY DNA

Assignee: none

Attorneys of Record: James C. Haight, Thomas G. Wiseman, Robert Benson, Gloria H. Richmond, Jack Spiegel, Reid G. Adler, Marjorie D. Hunter, Dante Picciano, Margaret Burke, Susan S. Rucker and David Sadowski

Associate Attorneys: Arthur Schwartz, Donald D. Jeffery, Richard L. Schwaab, Peter G. Mack, David A. Blumenthal, Joseph D. Evans, John J. Feldhaus and Stephen A. Bent

Accorded Benefit of: Serial Nos. 07/539,169, filed 06/18/90; 07/072,455, filed 07/13/87; 06/555,811, filed 11/28/83; 06/445,892, filed 12/01/82; and 06/445,451, filed 11/30/82

Address: Foley & Lardner
3000 K Street, NW
Ste. 500
Washington, DC 20007-5109

COUNT 1

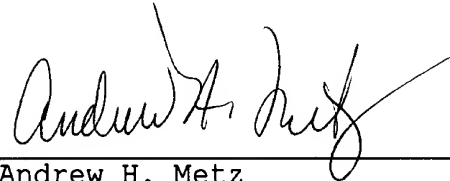
A recombinant vaccinia virus that comprises a segment comprised of (A) a first DNA sequence encoding a polypeptide that is foreign to vaccinia virus and (B) a vaccinia promoter sequence, wherein (i) said promoter sequence is adjacent to and exerts transcriptional control over said first DNA sequence and (ii) said segment is positioned within a nonessential genomic region of said recombinant vaccinia virus.

The claims of the parties which correspond to this count are:

Paoletti et al. (application): Claims 40 and 49

Paoletti et al. (patent) : Claim 7

Moss et al. : Claims 33, 36, 37, 39, 41-44,
47, 48, 50 and 52-57

A handwritten signature in black ink, appearing to read "Andrew H. Metz", is written over a horizontal line.

Andrew H. Metz
Administrative Patent Judge
(703) 308-9797

dal

INTERFERENCE DIGEST

Interference No. 103,399 Paper No. 28
Name, Paoletti et al.
Serial No. 08/228,926 Patent No. _____
Title, METHODS USING MODIFIED VACCINIA VIRUS
Filed, 04/18/94
Interference with Paoletti et al. v. Moss et al.

DECISION ON MOTIONS

Examiner-in-Chief, _____ Dated, _____

FINAL DECISION

Board of Patent Appeals and Interferences, favorable Dated, 5/10/02

Court, _____ Dated, _____

REMARKS

This should be placed in each application or patent involved in interference in addition to the interference letters.